

**PATENT APPLICATION**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re application of

Docket No: Q80886

Kenichi KATSUMATA, et al.

Appln. No.: 10/816,890

Group Art Unit: 2837

Confirmation No.: 4026

Examiner: Erick David Glass

Filed: April 5, 2004

For: MOTOR DRIVE APPARATUS AND METHOD OF CONTROLLING AN OPERATION  
ON THE SAME

**REPLY BRIEF PURSUANT TO 37 C.F.R. § 41.41**

**MAIL STOP APPEAL BRIEF - PATENTS**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

In accordance with the provisions of 37 C.F.R. § 41.41, Appellant respectfully submits  
this Reply Brief in response to the Examiner's Answer dated October 2, 2007. Entry of this  
Reply Brief is respectfully requested.

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REPLY BRIEF UNDER 37 C.F.R. § 41.41  
U.S. Appln. No.: 10/816,890

Attorney Docket No.: Q80886

**STATUS OF CLAIMS**

Claims 1-4 are pending and are the basis of this Appeal. Claims 1-4 stand rejected.

REPLY BRIEF UNDER 37 C.F.R. § 41.41  
U.S. Appln. No.: 10/816,890

Attorney Docket No.: Q80886

**GROUND OF REJECTION TO BE REVIEWED ON APPEAL**

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Hammer (U.S. Patent No. 3,581,174) and are presently under appeal.

### **ARGUMENT**

In the Examiner's Answer to the Appellant's Brief, the Examiner has not raised any arguments in addition to the ones already of record. The Examiner notes that the problems that the Appellants note in the prior art, and the solutions therein, are allegedly not claimed. The Appellants respectfully submit that the arguments that were made in the Appellants Brief relate to the structural difference between the present invention and Hammer as well as the Examiner's burden under US patent laws and rules of practice to establish anticipation.

Specifically, the Appellants argued that Hammer merely discloses that the automatic reversing circuit 52 is disconnected and inoperative **when the window is either in the open or closed position**. The Appellants further argued that this is not equivalent to the claimed operation of the invalidation canceling section. The invalidation canceling section cancels the invalidation when the window moves in the opposite direction, thereby preventing the problems that are mentioned in the present Specification. The Applicants reiterate that Hammer merely teaches reversing the direction of motion and not the subsequent cancellation of the reversing, as in the present invention.

Notwithstanding what the Examiner appears to be alluding to in the Examiner's Answer, the Applicants merely referred to the functionalities and advantages of the invention to further highlight the structural differences already pointed out.

The Examiner, in an argumentative manner, responds to the Appellants contention that the Examiner is reading the claims over broad by asserting that the Appellant is reading more detail into the claims.

The Appellants respectfully submit that it is the Examiner's burden to establish anticipation. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP 2131 *citing Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The Appellants respectfully submit that the Examiner has not established anticipation of the present invention by Hammer at least because he has not shown where in Hammer each of the claimed limitations is disclosed explicitly or inherently.

### CONCLUSION

For the above reasons as well as the reasons set forth in Appeal Brief, Appellant respectfully requests that the Board reverse the Examiner's rejections of all claims on Appeal. An early and favorable decision on the merits of this Appeal is respectfully requested.

Respectfully submitted,

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